

January 13, 2022

**VIA IBFS & ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
45 L Street, N.E.  
Washington, DC 20554

**Re: Pacific Networks and ComNet (USA) LLC; GN Docket No. 20-111; ITC-214-20090105-00006; ITC-214-20090424-00199**

Dear Ms. Dortch:

Pacific Networks Corp. (“Pacific Networks”) and ComNet (USA) LLC (“ComNet,” and, together with Pacific Networks, the “Companies”) file this letter in the above-referenced proceedings to emphasize certain facts in the record that bear directly on the Commission’s decision as to whether it should revoke and terminate the Companies’ Section 214 authorizations and reclaim International Signaling Point Codes (“ISPCs”) held by ComNet.

The Companies responded to the Commission’s assertions in their Response to the *Order to Show Cause* (“OSC”) issued almost 21 months ago by the Chiefs of the International Bureau, Wireline Competition Bureau and Enforcement Bureau,<sup>1</sup> and in their Response to the Commission’s *Order Instituting Proceeding on Revocation and Termination* (“Commission Order” and, together with the OSC, the “Orders”).<sup>2</sup> In those responses, the Companies provided hundreds of pages of responses to the Commission’s questions, demonstrated that revocation and termination of the Section 214 authorizations and reclamation of the ISPCs are not warranted, and showed that the procedure used by the Commission so far violates both the Administrative Procedure Act and the Companies’ due process rights.

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<sup>1</sup> Response to Order to Show Cause, *Pacific Networks Corp. & ComNet (USA) LLC*, GN Docket No. 20-111, File Nos. ITC-214-20090105-00006, ITC-214-20090424-00199 (filed June 1, 2020) (“Response to OSC”).

<sup>2</sup> Response to Order Instituting Proceeding on Revocation and Termination, *Pacific Networks Corp. & ComNet (USA) LLC*, GN Docket No. 20-111, File Nos. ITC-214-20090105-00006, ITC-214-20090424-00199 (filed April 28, 2021) (“Response to Commission Order”).



The Companies send this letter through their counsel to emphasize that the actions proposed by the Commission are not supported by the facts of the case, and to further elaborate parts of the record for consideration by the Commission.

While the *Orders* have focused entirely on state ownership of CITIC Group Corporation, CITIC Telecom International Holdings Limited (“CITIC Tel”)—which owns 100% of Pacific Networks through Pacific Choice International Limited—is a publicly-listed company on the Hong Kong Stock Exchange, with a diversified shareholder group including investors from the United States, the United Kingdom and the European Union.<sup>3</sup> To comply with the Listing Rules of the Hong Kong Stock Exchange, CITIC Tel provides transparency in its financial operations comparable to that of companies listed on U.S. and international stock exchanges, making its governance and financial reports publicly available.<sup>4</sup> CITIC Tel also maintains consistent, frequent communication and interaction with the international institutional investors that are existing shareholders or potential investors in CITIC Tel. CITIC Tel and its Board of Directors must observe its Articles of Association and the requirements of the Listing Rules in making any decisions regarding its own operations, or any decisions that might impact the Companies.<sup>5</sup> In addition, any material decisions—major transactions, substantial disposals of assets or acquisitions, etc.—of CITIC Tel must be taken through meetings of the company’s shareholders.<sup>6</sup> There has been no showing or other allegation that CITIC Tel is in any way out of compliance with any governance, transparency or disclosure requirements. As the Companies explained in their responses, the participation of significant levels of public, international ownership show the Companies are very different from a 100% state-owned company not subject to external transparency and accountability requirements.<sup>7</sup>

Moreover, CITIC Tel has never sent any staff to occupy management positions in its overseas subsidiaries and international branch offices. Accordingly, CITIC Tel has not sent management staff to the United States to oversee operations of its subsidiaries: operations in the United States are managed locally, by locally recruited staff which, at present, only comprise of six people. Those staff are employed through local employment contracts in compliance with U.S. labor requirements. As the Companies explained in detail,<sup>8</sup> the Companies are subject to budget oversight, reporting on re-location, and locally implement guidance from CITIC Tel regarding network security (a fact known to the U.S. government since 2009). Direct involvement by CITIC Tel executives is minimal.<sup>9</sup> At most, these interactions show that CITIC Tel exerts a level of involvement with the Companies comparable to what any international corporation would exert over a small pair of subsidiaries. Crucially, however, none of these interactions show any level of involvement by entities higher up in CITIC Tel’s ownership chain, and they certainly do not show any involvement by the Chinese government in the Companies’

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<sup>3</sup> See Response to OSC at 22, 25.

<sup>4</sup> See, e.g., <https://www.citictel.com/financial-reports/> (posting of CITIC Tel Interim and Annual Financial Reports since 2006).

<sup>5</sup> For guides provided by the Hong Kong Exchange regarding listed corporation meetings and required disclosures, see [https://www.hkex.com.hk/Listing/Listed-Issuers/Practices-and-Procedures-for-Handling-Listing-related-Matters?sc\\_lang=en](https://www.hkex.com.hk/Listing/Listed-Issuers/Practices-and-Procedures-for-Handling-Listing-related-Matters?sc_lang=en)

<sup>6</sup> See Chapter 14, Notifiable Transactions, HKEX Listing Rules, at <https://en-rules.hkex.com.hk/rulebook/chapter-14-notifiable-transactions>.

<sup>7</sup> Response to OSC at 2, 23.

<sup>8</sup> See, e.g., *id.* at 11, 25; Response to Commission Order at 65-73.

<sup>9</sup> Response to Commission Order at 43-45.

operations. Accordingly, the Companies strongly believe that concern about any threat they may pose to national security is entirely misplaced. To the extent the Commission believes these interactions present or increase any risk to national security, they can be addressed through targeted mitigation measures, as explained in the Companies' responses.<sup>10</sup>

The Companies also stand in a very different posture from situations where the Executive Branch has specifically recommended revocation of Commission authorizations. The record of this proceeding shows that the Companies have worked cooperatively and well with Executive Branch oversight. Over a period of ten years, the Companies regularly had exchanges with the Executive Branch group formerly known as Team Telecom, hosted on-site inspections, and provided extensive and detailed information in response to Team Telecom's information requests.<sup>11</sup> Notably, and unlike other cases where the Commission acted to protect national security, the Executive Branch's opinion were "not offered as a recommendation . . . that the FCC take any particular action with respect to the Companies" and the Executive Branch did not make any findings with regard to noncompliance with the Companies' 2009 Letter of Assurance.<sup>12</sup>

Finally, the Companies emphasize that the record shows they engage in very limited and small-scale facilities-based operations in the United States that do not pose national security concerns.<sup>13</sup> The Companies do not possess any major switching hubs, extensive network facilities, or undersea cable or satellite landing rights in the United States. The primary business of the Companies is providing retail calling cards. Yet, there has been no showing by the Commission that continued sales of retail calling cards create any particular national security threat. Other services are provided to a relatively small number of other customers. The magnitude of the national security threats the *Orders* propose is thus entirely disproportionate to the size, operations and reach of the Companies, and completely unconnected to the Companies' primary source of revenue.

Accordingly, the Companies again respectfully request that instead of proceeding to revoke and terminate their Section 214 authorizations, Commission staff instead work with the Companies to implement reasonable mitigating measures as proposed in the Companies' responses. A decision to allow the Companies to retain their Section 214 authorizations would further enhance the Companies' existing communication with the Commission and ensure continued investment in the U.S. economy and provision of services to U.S. customers.

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<sup>10</sup> *Id.* at 21-22.

<sup>11</sup> Response to OSC at 4-5, 7-9, 20-21, 31-32, and Exhibit K.

<sup>12</sup> Response to Commission Order at 5-7, 18; Letter from Kathy Smith, Chief Counsel, Nat'l Telecommun. & Information Admin., to Denise Coca, Chief, Telecommun. & Analysis Div., Int'l Bureau, FCC, GN Docket No. 20-111 FCC File Nos. ITC-214-20090105-00006; ITC-214-20090424-00199 (filed Nov. 16, 2020) at 1; Letter from Kathy Smith, Chief Counsel, Nat'l Telecommun. & Information Admin., to Denise Coca, Chief, Telecommun. & Analysis Div., Int'l Bureau, FCC, GN Docket No. 20-111 FCC File Nos. ITC-214-20090105-00006; ITC-214-20090424-00199 (filed June 4, 2021) at 1.

<sup>13</sup> See Response to OSC, 12-16, 26.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,

/s/ Jeffrey J. Carlisle  
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cc: Thomas Sullivan, FCC International Bureau  
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